IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

CIVIL APPLICATION NO. 445 OF 2005
IN
SECOND APPEAL (ST) NO. 5499 OF 2005

Office Notes, Office Memoranda of of Coram, appearances, Court's orders and Registrar's orders : Court's or Judge's orders

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CORAM: P.V. KAKADE, J.

DATED: 15TH JULY, 2005

P.C.:

1. Heard both sides.

2. This is an application for condonation of delay of 336 days in filing the second appeal.

3. It was urged on behalf of the applicant that there was sufficient cause for filing the appeal by such delay and it was neither intentional nor deliberate. According to him, the advocate for the applicant lost his brief containing the said papers in Small Causes Court and thus the applicant was instructed by the advocate to apply for certified copy which took considerable time. It is also submitted that it was prevented by his financial condition from

approaching the Court. The learned counsel for the respondents stoutly objects to the application on various grounds.

4. However, it is to be noted that it is always better to adjudicate the dispute on merits and hence I am inclined to grant the application.

5. In the circumstances, the application is made absolute in terms of prayer clause (a) on condition that the cost of Rs.500/- shall be paid to the respondents within two weeks by the applicant.

By this direction, the application stands disposed of with no order as to costs.

Matter be placed for admission after four weeks.

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